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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1968

No. 1257

HELEN LOPO, by her Guardian Ad Litem, SYLVIA TINA LOPO,

Plaintiff and Appellant,

vs.

SAKS FIFTH AVENUE, a New York Corporation,

Defendant and Appellee.

ON APPEAL FROM THE DISTRICT COURT OF APPEAL
STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT, DIVISION TWO

JURISDICTIONAL STATEMENT

HELEN LOPO, by her Guardian Ad Litem, SYLVIA TINA LOPO

In Propria Persona for Petitioner-Appellant

16366 Royal Hills Drive
Encino, California
Phone: 213-788-2462

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1968

No.

HELEN LOPO, by her Guardian
Ad Litem, SYLVIA TINA LOPO,

Plaintiff and Appellant,

vs.

SAKS FIFTH AVENUE, a New York
Corporation,

Defendant and Appellee.

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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1968

No.

HELEN LUPO, by her guardian ad litem, SYLVIA TINA LOPO,

Plaintiff and Appellant,

vs.

SAKS FIFTH AVENUE, a New York corporation,

Defendant and Appellee.

ON APPEAL FROM THE DISTRICT COURT OF APPEAL, STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION TWO

JURISDICTIONAL STATEMENT

Appellant-Plaintiff Helen Lopo, by her "Guardian ad Litem", Sylvia Tina Lopo, court appointed June 4, 1964 by James McRoberts, judge of the Superior Court of the State of California, County of Los Angeles, hereby appeals to the Supreme Court of the United States from the verdict and final judgment of the District Court of Appeal, Second Appellate District,

Division Two, of the State of California. Affirming the judgment of the Superior Court, County of Los Angeles, against Plaintiff-Appellant Helen Lopo, entered in book 5776, page 121, on November 18, 1966, in the case entitled - Helen Lopo, et al, Plaintiff v. Saks Fifth Ave., a New York corporation, et al, Defendants. - Bayard Rhone, Judge. - In which action, Plaintiff's rights under the Due Process Clause of the Fourteenth Amendment of United States Constitution were violated. Also Plaintiff's rights under Title 18, Section 241, United States Code, Chapter 13, Civil Rights, were violated.

OPINION BELOW

The Opinion of the District Court of Appeal of the State of California is annexed hereto as Appendix "A" - The petition for rehearing was denied on October 28, 1968. The Appellant's

petition for hearing in the Supreme Court of California was denied on December 4, 1968. Copies of the judgment, or remitter as to its date of entry (December 18, 1968) is annexed as Appendix "B". - Order extending time to docket appeal and file record is annexed as Appendix "C".

GROUNDS ON WHICH JURISDICTION IS INVOKED

1. The Nature of the proceeding:

Appellant was a charge account customer at Respondent's stores for approximately the past 12 years, at their Detroit, Michigan, and their Beverly Hills, California stores.

However, Appellant had accrued an amount owed on her charge account, and while shopping with her daughter as an invited guest at Respondent's store, she was seized and placed under false imprisonment, repeated demands were made

that she pay her bill, when she did not pay, the Beverly Hills Police were called. Six (6) hotly pressed demands were made that she pay up or else, when she did not pay, her purse was forcefully taken from her, she was knocked down and placed under arrest, and falsely charged with forgery (of charging to various accounts).

Appellant submits that the false imprisonment and arrest was a conspiracy; the arrest was without warrant, and Appellant was so held under imprisonment, until forced payment of the balance owed on Appellant's accrued charge account was forcefully taken from Appellant at the police station.

Therefore, is in direct violation of Title 18, Section 241, United States Code, Chapter 13, Civil Rights. - Conspiracy or concerted action, against rights of citizens.

Also, violation of Appellant's rights under Due Process Clause of the Fourteenth Amendment of the United States Constitution.

2. The judgment or decree sought to be reviewed was entered on December 18, 1968. The Notice of Appeal to this court was filed in the District Court of Appeal, Second Appellate District, Division Two, State of California on March 10, 1969, which contained Appellant's first request for the record. - A second request for the record was filed on March 17, 1969 and denied on March 28, 1969. - On March 29, 1969 the Honorable Justice Douglas granted Appellant's motion to extend time to docket the appeal and filed the record to and including April 14, 1969.

3. The statutory provisions believed to confer on this court's jurisdiction of the appeal is 28 U.S.C. Sec. 1257 (1).

"Where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity." (Supreme Court practice, page 582, Stern & Gressman)

4. Violation of Appellant's constitutional rights, United States Code of Civil Rights, and Other Cases Believed to Sustain Jurisdiction.

a. "Conspiracy: No formal agreement between the parties is essential to the formation of a "conspiracy" for the agreement may be shown if there be concert of action. All the parties working together understandingly, with a single design for accomplishment of a common purpose." Marino v. U.S. (C.C.A. 1937) 91 F.2d 691. 113 A.L.R. 975, certorari denied 58 S.Ct. 410, 302 U.S. 764, 82 L.Ed. 593.

"A "conspiracy" is constituted by an

agreement, but is the result of the agreement and not the agreement itself. Id. The common design being the essence of the charge, it is sufficient if two or more persons in any manner, positively or tacitly, come to a mutual understanding to accomplish a common and unlawful design." U.S. v. Cassidy (D.C. 1895) 67 F. 698.

"Common design is the essence of conspiracy, and crime may be committed whether parties comprehend its entire scope, whether they act separately or together, by same or different means, known or unknown to some of them, but constantly leading to same unlawful result." People v. Hess (1961) 234 P.2d 65, 104 C.A. 2d 642. Appeal dismissed 72 S.Ct. 177, 342 U.S. 880, 96 L.Ed. 661.

b. Due Process of Law: Violation of due process clause of the Fourteenth Amend-

ment of the United States Constitution.

Also, California Rules of Court, appeal rules 40(e) (f) and 46 and 105(e) (under California law compliance with these rules are mandatory).

c. Burden of Proof: The Trial Court's failure to instruct the jury as to which set of facts of which there was evidence in the record, if any, constituted probable cause for an arrest was particularly prejudicial to interests of the Plaintiff in that the burden of proof is on the Defendant to prove justification for an arrest, when arrest without warrant is pleaded. The jury first had to make up its own mind as to what kind of evidence constituted probable cause to make an arrest, and then to determine that issue of law (properly to be determined by the court) in light of the court's instruction, above mentioned, that the burden in all

respects was on the Plaintiff. (R.T. P. 537-538) To force the Plaintiff to accume the burden of proof, was not due process of law. Therefore, is in violation of due process clause of the Fourteenth Amendment of the United States Constitution.

d. Probable Cause: When a person has been detained and that detention is not for the investigation of a offense believed to have been committed at the time, then there is no defense of probable cause available to the defendant. This point was clearly established in the case of Moffatt v. Buffums, Inc. 21 Cal. App. 2d 371.

In the instant case, it is shown beyond any doubt that Plaintiff was not being detained for investigation on any grounds that she was stealing the property of another, or of any crime suspected, but

on the contrary, was detained for the sole purpose of forcing the payment of money owed for prior purchases. Therefore, is in violation of Title 18, Section 241, United States Code, Chapter 13, Civil Rights, - conspiracy or concerted action, against rights of citizens.

Also, in violation of Due Process Clause of the Fourteenth Amendment of the United States Constitution.

THE FOLLOWING QUESTIONS ARE PRESENTED BY THIS APPEAL.

1. The violation of Appellant's Constitutional Rights, including flase imprisonment and/or conspiracy, as found in Title 18, Section 241, United States Code, Chapter 13, Civil Rights - Conspiracy, or Concerted Action, against rights of citizens.

"If two or more persons conspire to injure, oppress, threaten, or

intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same."

Also, as found in Title 7, Section 182, of the California Code, Chapter 8, Conspiracy, Crime against Public Justice:

"If two or more persons conspire falsely and maliciously to indite another for any crime, or to procure another to be charged or arrested for any crime."

2. Perjury, as found in Title 18, Section 1621, United States Code, Chapter 79:

"Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an

oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury."

See also Title 7, Section 118 of the California Code, Chapter 5:

California Rules of Court: Appendix - Division II

3 -- Constitutional Obligations

"It is the duty of all justices and judges of the courts of California to support and defend the Constitution of the United States and the Constitution of California; in so doing, they shall fearlessly observe and apply fundamental limitations and

guarantees."

Respondent's self admitted acts of giving false information to the police, to effect Appellant's arrest on a felony charge, thereby involving the police to oppress, intimidate and force payment of a debt. Also, Respondent's perjury under oath on issues of vital material facts at time of trial, are a matter of record, and cannot be denied. See (R.T.P. 395, L 25 to P. 396, L 2), (R.T.P. 405, L 17 thru L 25), (R.T.P. 419, L 21 to P. 420, L 3), (R.T.P. 464, L 2 to P. 465, L 10).

3. The Trial Court wrongfully charged Plaintiff with burden of proof at time of trial; arrest without warrant establishes a Prime Facie case and places burden of proof on arresting party. To force the Plaintiff to assume the burden of proof was not Due-Process-of-Law. Therefore is in violation of the Due

Process Clause of the Fourteenth Amendment of the United States Constitution.

4. Conduct and false charges of the Respondent before the Appeal Court, and the State Supreme Court of California -- -- Respondent knowingly and intentionally violated Appeal Rules and Due-Process-of-Law, by submitting documents to the Appeal Court without serving such copies on the Appellant.

This document made false charges of forgery that Appellant applied Attorney Ward Sullivan's name to briefs which Respondent charged were prepared by George Lopo, and false charges that Sylvia Lopo was a self-appointed attorney therefore not properly before the Court. These charges, even if true (but definately not), could not then be raised for the first time, and then to deliberately proceed to withhold notice from Appellant

until the Supreme Court made its decision, based on such false information, of which the Appellant had no knowledge, or opportunity to answer such charges. For Appellant to be falsely charged and tried without her knowledge of such charges, is not Due-Process-of-Law. Therefore is in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

STATEMENT OF THE CASE

It is indeed shocking to find that an occurance such as this could really happen. When, as an invitee of Respondent, and while shopping in Respondent's store in Beverly Hills, Respondent illegally, and unlawfully, and without reasonable or probable cause, imprisoned the Appellant, and caused her to be arrested and taken to the police station on a false charge of forgery for the purpose of collecting

money due Respondent from Appellant upon her open book, or charge account.

When Mrs. Lopo and her daughter, were grabbed by the arm and forced to go to the upstairs office of Saks, she told them that she was Mrs. Lopo and that they could verify this by her signature on the sales slips that she had just signed, and that they could compare this with her account signature (R.T.P. 224, Line 1 to Line 26). As this was a signature account, they had no charge-a-plate system. However, their reply was that her account was deliquent, they threw a check book in front of her, telling her to write a check and pay her bill. She said she couldn't as she had no checking account, but would have her husband put a check in the mail over the weekend. This did not satisfy Mr. Plotnick and he continued to demand that she pay her bill (R.T.P. 394, Line 23 to

P. 395, Line 16).

From the time that Respondent first apprehended the Appellant at its store, until her departure to the police station, the Respondent made six (6) hotly pressed specific demands on Mrs. Lopo that she pay her accrued bill.

The arrest was without issue of a warrant, from the testimony of the arresting officer, Mr. Devich, we find that when he contacted Mr. Plotnick at Saks, that they stepped out into the hall and with just the two of them present, that from his discussion, is why he placed Mrs. Lopo under arrest. (R.T.P. 464, Line 25 to P. 465, Line 4).

Now, Mrs. Lopo has been falsely imprisoned, arrested for forgery, physically assaulted, (R.T.P. 263, Line 1 to P. 264, Line 26) also (R.T.P. 396, Lines 23-26) browbeaten, and forced to pay

a debt, while so held under threat and duress. She was told to: -- Pay Saks and we will let you go -- or would you rather be locked up? -- Pay Saks or we will book, fingerprint and put you in jail. And Mrs. Lopo under these threats and duress, begged, "No, please don't do that" (R.T.P. 250, Lines 1-22).

The Respondent took Mrs. Lopo's ledger card to the police station, knowing that the lady he had under arrest was Mrs. Lopo. Now at the police station, "Prior" to the collection of the bill, the Respondent did not produce, receive, or even attempt to acquire any identification on the Appellant whatsoever. (R.T.P. 419, Lines 1-7)

But Respondent did demand and force collection of the bill at the police station and gave the lady a receipt made out to Mrs. Lopo, thereby acknowledging

her to be Mrs. Lopo. It should also be noted that Mrs. Lopo did not have possession of her purse, for it was only when Respondent handed her a receipt for the sum of $574.93, that they gave her the purse.

The District Court in its written Opinion ruled solely on the question of probable cause, and ignored all other issues.

Plaintiff's contention is that the Court erred in its instruction to the jury. The instruction permitted the jury to determine if Saks was legally justified in its action. Probable cause is a question of law for the Court.

SUBSTANTIALITY OF FEDERAL QUESTIONS

The questions raised in this case are without doubt the most vital Due Process, and Civil Rights issues encompassed in the United States Constitution. They reach

the very core of our lives as free people. They, by constitutional guarantees, abolish imprisonment to force payment of a private debt.

For if this procedure to force collection of a debt is condoned, it means that any person in the United States, who becomes a debtor, is subject to seizure and imprisonment and physical assault to force payment of such debt.

I do not believe that this Court can sanction the procedure under which a person is seized, held and forced to buy his freedom.

The right of a creditor to collect for an outstanding account is governed by rules of Civil Law and does not, under any stretch of the imagination, justify the arrest and imprisonment of a person to accomplish that end.

I believe that the discussion above,

demonstrates that the questions presented are so substantial as to require plenary consideration, with briefs on the merits and oral arguments, for their resolution.

Respectfully submitted,

HELEN LOPO, by her
Guardian ad Litem,
Sylvia Tina Lopo

In Propria Persona for
Petitioner-Appellant.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

HELEN LOPO, by her Guardian ad Litem, SYLVIA TINA LOPO, Plaintiff and Appellant, vs. SAKS FIFTH AVENUE, a New York corporation, Defendant and Respondent.	Civil No. 31906 Court of Appeal-Second Dist. F I L E D Oct. 10, 1968 Clay Robbins, Jr. Clerk Deputy Clerk

APPEAL from judgment of the Superior Court of Los Angeles County. Bayard Rhone, Judge. Affirmed.

S. Ward Sullivan for Appellant.

Bolton, Groff & Dunne and Robert E. Dunne, Edward L. Lascher for Respondent

A jury found for respondent in this action for charges for false imprisonment. By her guardian ad litem, plaintiff Helen Lopo appeals the verdict and judgment.

In 1958, Mrs. Lopo lived at 10587 Wilshire Boulevard. On 22 February of that year, she opened a charge account at the Saks store in Beverly Hills. The account was in her name.

About a year later, Mrs. Lopo returned to Michigan, her native state, for three or four months. When she returned, she and her family lived briefly in Hollywood, then moved to Encino where they lived up to the time of the trial. Mrs. Lopo rented a post office box during this period and there is evidence in the record that she received mail, including Saks bills, sent to her former address through the post office box. Apparently she never notified Saks of her change of address.

By 19 December 1959, the Saks account was in arrears for over $500. Saks had received no payments on the account since the previous May and had turned the account over to a collection agency. There is evidence that some bills had been returned undelivered to Saks.

On 19 December 1959, Mrs. Lopo and her daughter Starlie went to Saks and made several purchases. (Starlie and Tria also had charge privileges on the account,

but Mrs. Lopo made all the purchases on the date in question.) Mrs. Lopo charged the purchases to her account, signing her name and the Wilshire address at the botton of the Saks slips.

At about 5 p.m., the store manager, Mr. Mathews, was on the store's fourth floor. He was paged by phone and told that Mrs. Cook, another employee, wanted to talk to him on the fourth floor. Mrs. Cook, "handled the collection problems."

After taking the phone call, Mathews noticed a heavy set woman, who proved to be Mrs. Lopo, moving towards a closed bank of elevators. He thought this conduct was unusual and asked if he could be of assistance. The woman said nothing. By then Mrs. Cook had arrived, and she showed Mathews the record of the Lopo account, and pointed out Mrs. Lopo. Mathews approached appellant, and, according to him, advised her something appeared to be wrong with her account and asked "Would you go upstairs to the office where we have the records and let's see if we can't straighten this matter out." He then took Mrs. Lopo by the elbow and led her to the elevator. (Starlie Lopo testified that Mrs. Cook "grabbed" her mother, and that Mathews "had me by the arm.")

Mrs. Lopo, her daughter, Mathews, and Mrs. Cook entered the controller's office on the sixth floor.

Mathews told Mrs. Lopo, who sat in a chair in front of the controller's desk, that he would like identification. He asked Mrs. Lopo if she was Mrs. Lopo. Told that she was, he asked for her address. She said he had the address on the record card; a brief argument followed. Mathews called the Wilshire address and was told the Lopos no longer lived there.

At this point, Mr. Plotnick, Saks' controller, arrived in his office. Mathews told him about the account, and that Mrs. Lopo would not identify herself. Mathews then left the office. In response to Plotnick's inquiries, Mrs. Lopo said her husband would pay the bill and gave two addresses in Detroit where he could be reached. Long distance information disclosed that the addresses were fictitious. During this interrogation, Starlie Lopo kept advising her mother, "'You don't have to answer that.'" Finally, Plotnick made her leave his office. He asked her mother several times to sign a counter check for the amount of the bill, but she refused, saying she did not have a checking account. At some point, Plotnick and Mathews conferred, and decided to call the police.

Eventually, two Beverly Hills police officers arrived. They asked Mrs. Lopo for identification. She would not produce any, whereupon one of the officers emptied her

purse onto the desk. Among its contents were two large envelopes, each of which contained about $10,000 in $100 bills. At this, the police said she had better come to the station to be identified. The Lopos, the officers and Plotnick, went to the station in police cars. After some discussion with the officers, Mrs. Lopo gave Plotnick $600; he gave her change and a receipt and departed. Mrs. Lopo, who was not charged with any offense, or formally arrested, was allowed to depart when her husband arrived with her Michigan driver's license.

At the time of trial, Mrs. Lopo was unable to testify coherently. (Medical witness for her testified that psychiatric disorders from which she suffered were induced by the events of 19 December.) Starlie Lopo's account of the events attributed force and rudeness to the Saks personnel and the Beverly Hills police.

Plaintiff's principal contention is that the court erred in its instruction to the jury. Specifically, the contention is that the instruction permitted the jury to determine if Saks was legally justified in its action.

A storekeeper has a right to detain a person whom he reasonably believes is stealing from him, for a reasonable time, to investigate in a reasonable manner. (Collyer v. S. H. Kress & Co., 5 Cal.2d 175, 180-181.)

Whether the storekeeper has the necessary

reasonable grounds to bring this privilege into play is a question of law for the court. (Id.)

In this case, the relevant instruction read:

"A person or corporation, may in the protection of his or its property, detain another for investigation with reference to a taking of his or its property. In an action for damages for false imprisonment, probable cause is a defense . . ."

Plaintiff argues that "where, as here, the evidence was in conflict, it was the duty of the court to instruct the jury as to what facts, if established, would constitute probable cause, and why the question as to the existence of such facts should have been submitted to them." (Aitken v. White, 93 Cal.App.2d 134, 141.)

At the trial plaintiff did not propose any such instructions, and she raised the point for the first time in her motion for new trial in which she argued that the failure of the court to give such instructions on its own motion was reversible error. We think the lack of elaboration in the instructions on probable cause was something of which plaintiff had no cause to complain. Having submitted the case to the jury on a general set of instructions, plaintiff cannot now complain that she might have done better under some other as yet unspecified set of

instructions. Indeed we think that the failure of the court to marshal the facts on probable cause in its instructions operated to plaintiff's advantage, for the evidence on probable cause did not generally favor plaintiff's position. This evidence was summarized in respondent's brief as follows: "A charge account has been delinquent for about half a year, with occasional outbursts of major buying thereon; all attempts to communicate with the supposed patron have failed and she appears to have flown the proverbial coop; nevertheless, there is a sudden outburst of charging on the account, employing an unarguably invalid address six times and, when the person doing the charging is approached, she appears to be an unkempt individual who first tries to run, then refuses to give her identity, and when asked if she is a specific person claims that she is but cannot substantiate her supposed identity -- and even claims to be unaware of her own telephone number; she further exacerbates the situation by giving bogus firm names for her husband in another city and, to cap it off, she is accompanied by a "guardhouse lawyer" who busily interjects warnings against supplying any information."

On the evidence presented there were substantial grounds on which the jury could have found probable cause, and the inadequacy of the instructions on probable cause

would only have become significant if the jury had returned a verdict in favor of plaintiff. (Aitken v. White, 93 Cal. App.2d 134; White v. Martin, 215 Cal.App.2d 641; Gibson v. J. C. Penney Co., Inc., 165 Cal.App.2d 640.)

Plaintiff's other contentions are without merit and require no discussion.

The judgment is affirmed.

FLEMING, J.

We concur:

ROTH, P. J.

NUTTER, J. Pro Tem*

THE COURT: This opinion is not for publication pursuant to the provisions of Rule 976, California Rules of Court.

* Assigned by Chairman of the Judicial Council.

TCJS10—6/63

ATTORNEY FOR

ADDRESS

TELEPHONE

CLERK

Nov 18 '66 5776 121

FILED

Dated NOV 16, 1966

WILLIAM G. SHARP, County Clerk

BY DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

HELEN LOPO, by her Guardian ad Litem, Sylvia Tina Lopo
Plaintiff,

vs.

SAKS FIFTH AVENUE, a New York Corporation
Defendant.

No. 748 299

JUDGMENT ON VERDICT IN OPEN COURT

JUDGMENT IS AFFIRMED BY DISTRICT COURT OF APPEAL
REMITTITUR FILED 12-18-68
WILLIAM G. SHARP, COUNTY CLERK
ATTEST:
By B. Campbell Deputy
12/20/68

This action came on regularly for trial on the 9th day of November, 19 66; the plaintiff appearing by attorney PAUL CARUSO and the defendant appearing by attorney ROBERT E. DUNNE, of Bolton, Groff & Dunne.

A jury of 12 persons was regularly impaneled and sworn to try the action. Witnesses on the part of the plaintiff and the defendant were sworn and examined. After hearing the evidence, the arguments of counsel, and instructions of the Court, the jury retired to consider of their verdict, and subsequently returned into Court, and being called answered to their names and duly rendered their verdict in writing in words and figures as follows, to-wit:

"TITLE OF COURT AND CAUSE" We, the jury in the above entitled action, find for the defendant, Saks Fifth Avenue, and against the plaintiff, Helen Lopo.

This 16th day of November, 1966. Maurice E. Coffey, Foreman."

WHEREFORE, by virtue of the law, and by reason of the premises aforesaid, it is ordered, adjudged, and decreed that said plaintiff take nothing by reaonn of her complaint herein, and that said defendant have and recover from said plaintiff, its

~~have and recover from said~~

~~with interest thereon at the rate of seven per cent per annum from the date of the verdict until paid, together with~~ costs and disbursements amounting to the sum of $1,861.96

JUDGMENT ON VERDICT IN OPEN COURT

FILED

DEC 18 1968

WILLIAM G. SHARP, County Clerk

by [illegible] DEPUTY

IN THE

Court of Appeal, Second Appellate District
State of California

ENTERED DEC 20 1968
BOOK 5776 PAGE 127
BY [illegible] DEPUTY

HELEN LOPO, ETC.,

Plaintiff and Appellant,

vs.

SAKS FIFTH AVENUE, ETC.,

Defendant and Respondent.

No. 31906

S. C. No. C 748299

REMITTITUR

ON APPEAL FROM THE SUPERIOR COURT IN AND FOR THE COUNTY OF LOS ANGELES

The above-entitled cause having been fully argued, submitted and taken under advisement,

IT IS ORDERED, ADJUDGED AND DECREED *by the Court that* the judgment is affirmed.

Respondent to recover costs on appeal.

HELEN LOPO, etc vs SAKS FIFTH AVENUE

STATE OF CALIFORNIA, County of Los Angeles

No. C 748299

I, WILLIAM G. SHARP, County Clerk and Clerk of the Superior Court for the county and state aforesaid, do hereby certify the foregoing to be a correct copy of the original Judgment on Verdict in open court filed November 16, 1966; Remittitur filed December 18, 1968,

on file and of record in my office, and that I have carefully compared the same with the original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Superior Court.

Dated: March 28, 1969

WILLIAM G. SHARP, County Clerk and Clerk of the Superior Court of the State of California for the County of Los Angeles

By [illegible], Deputy

FILED

DEC 18 1968

[illegible] Clerk

By [illegible] DEPUTY

IN THE

Court of Appeal, Second Appellate District
State of California

ENTERED DEC 20 1968
BOOK 5776 PAGE 127
BY [illegible] DEPUTY

HELEN LOPO, ETC.,

Plaintiff and Appellant,

vs.

SAKS FIFTH AVENUE, ETC.,

Defendant and Respondent.

No. 31906

S. C. No. C 748299

REMITTITUR

ON APPEAL FROM THE SUPERIOR COURT IN AND FOR THE COUNTY OF LOS ANGELES

The above-entitled cause having been fully argued, submitted and taken under advisement,

IT IS ORDERED, ADJUDGED AND DECREED *by the Court that* the judgment is affirmed.

Respondent to recover costs on appeal.

I, CLAY ROBBINS, JR., Clerk of the Court of Appeal, Second Appellate District, State of California, do hereby certify that the foregoing is a true copy of an original judgment entered on October 10, 1968 *, and now remaining of record in my office.*

Dated: December 10, 1968.

CLAY ROBBINS, JR., *Clerk*

By [signature]
Deputy

Supreme Court of the United States

No. ---------- , *October Term, 19* 68

HELEN LOPO, BY HER GUARDIAN AD LITEM,
SYLVIA TINA LOPO,

Appellant,

vs.

SAKS FIFTH AVENUE

O R D E R

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal and filing the record in the above-captioned case be, and the same is hereby, extended to and including April 14, 1969, without prejudice to the Court's consideration as to whether or not the application was timely received.

/s/ W. O. Douglas
Associate Justice of the Supreme
Court of the United States

Dated this 29th
day of March, 1969.

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, the undersigned, say:

I am and was at all times herein mentioned a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to the within action or proceeding; that my business address is 608 South Hill Street, Los Angeles, California 90014.

That on April 11, 1969, I served the within JURISDICTIONAL STATEMENT, upon the DEFENDANT in said cause, by depositing one copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, in a mail box regularly maintained by the Government of the United States at Los Angeles, California, addressed to the attorneys of record for said Defendant at their office addresses as follows:

Bolton, Groff & Dunne
210 West 7th Street
Los Angeles, Calif.

Edward L. Lascher
2497 Harbor Blvd.
Ventura, Calif.

Honorable Bayard Rhone,
Judge
Superior Court
Los Angeles County
110 N. Hill Street
Los Angeles, Calif.

Clerk of District
Court of Appeal
Second Appellate
District
Division Two
217 West 1st Street
Los Angeles, Calif.

United States Supreme Court
Office of Clerk
1 First Street North East
Washington, D.C.

Clerk of California Supreme Court
4250 State Building
San Francisco, California

Executed on April 11, 1969, at Los Angeles, California.

I declare under penalty of perjury that the foregoing is true and correct.

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